

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
1998 Biennial Regulatory Review --) CC Docket No. 98-94
Testing New Technology)

REPLY COMMENTS OF GTE

GTE Service Corporation and its affiliated domestic telephone operating companies (collectively "GTE")¹ respectfully submit their reply comments on the Notice of Inquiry in the above-captioned proceeding.² In the NOI, the Commission seeks comment on how it can ensure that regulation does not discourage applicants from conducting experiments involving new technology and new applications of existing technology.

I. INTRODUCTION.

Ten of the eleven parties filing comments³ in this proceeding support the Commission's attempt to ensure that "regulation does not unnecessarily discourage

¹ GTE's domestic telephone operating companies are: GTE Alaska Incorporated, GTE Arkansas Incorporated, GTE California Incorporated, GTE Florida Incorporated, GTE Hawaiian Telephone Company Incorporated, The Micronesian Telecommunications Corporation, GTE Midwest Incorporated, GTE North Incorporated, GTE Northwest Incorporated, GTE South Incorporated, GTE Southwest Incorporated, Contel of Minnesota, Inc., and Contel of the South, Inc.

² 1998 Biennial Regulatory Review – Testing New Technology, *Notice of Inquiry*, CC Docket No. 98-94, FCC 98-118 (released June 11, 1998) (hereinafter "NOI").

³ AirTouch, Ameritech, Bell Atlantic, BellSouth, GTE, Intermedia Communications, Lucent, MCI, SBC, U S WEST, USTA.

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applicants from conducting experiments involving new technology and new applications of existing technology."⁴ As the Commission correctly noted in its NOI, "experiments involving new technology, including technical trials and market trials, are a critical step in the process of introducing new services that benefit the public."⁵ This "critical step" is required to meet the Congressional mandate in Section 706(a) of the Telecommunications Act of 1996 where the Commission is directed to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans."⁶

The eleventh party, MCI, by contrast, argues that the Commission has already done enough to promote technology and market testing for the ILECs and that no further relaxation of the rules are needed. In fact, FCC rules regulate ILECs more than any other class of telecommunications service providers and provide little incentive to ILECs to develop new technology.

II. SECTION 706(A) OF THE 1996 ACT DOES NOT DISCRIMINATE AMONG CATEGORIES OF TELECOMMUNICATIONS PROVIDERS AND NEITHER SHOULD THE COMMISSION.

MCI would have the Commission believe that CLECs and IXCs are relatively more regulated than ILECs and thus have less incentive to engage in technology and market testing than ILECs. Thus, MCI advocates that the Commission promote technology and market testing by only removing regulatory barriers for CLECs and IXCs. Not only does MCI's argument fail on its factual premise, there simply is no basis

⁴ NOI at ¶ 1.

⁵ NOI at ¶ 1 (footnote omitted).

in the 1996 Act for the Commission to selectively encourage advanced telecommunications services from certain telecommunications providers and exclude others. MCI's comments are so blatantly self-serving and contrary to the stated goals of the NPRM, that the Commission should dismiss them without further consideration.⁷

III. GTE'S TWO TRACK APPROACH TO TEST APPROVAL IS BALANCED, EFFICIENT, AND WILL RESULT IN MORE TELECOMMUNICATIONS EXPERIMENTS BEING CONDUCTED.

GTE's recommendation for a two-track test approval process sets forth a model that balances the needs of the Commission, the experimenter and the industry as a whole.⁸ Such action will discourage applicants and raise the cost of experiments. As Lucent (at 1) correctly observes, "[a]ny delays in that process result in significant financial costs to the manufacturer, their customers, and the telecommunications industry. Delays increase research and development costs, create uncertainties in the marketplace, and shorten product lives already compressed by advances in technology."

Contrary to the balanced and efficient approach recommended by GTE, certain parties urge the Commission to require applicants to give advance notice months prior

⁶ 47 U.S.C. § 157.

⁷ For example, MCI comments at length regarding access to ILEC networks. MCI at 4-9. As such, MCI appears to be interested not in promoting new technology, but in taking advantage of technology developed by ILECs.

⁸ Under GTE's proposal, track 1 approval, where the trial does not interfere with another carrier's service and the applicant is under price cap regulation, is granted in ten days. Track 2 approval, where the trial may affect another carrier's service, the applicant is subject to rate-of-return regulation, or the trial raises safety concerns, is subject to a brief public comment process. GTE at 4-5.

to the experiment.⁹ MCI, in particular, supports long advance notices, purportedly so that "competitors would then have the option of performing parallel, but independent trials, or piggy-backing on ILEC trails."¹⁰ MCI's comments, however, demonstrate exactly why long advance notification in a competitive telecommunications marketplace will chill experimentation. Under MCI's construct, an experimenter assuming the financial risk to develop a new technology will be forced to provide the information to competitors. These competitors will then be able to quickly develop their own copies of the technology, without having to make the investment made by the experimenter to develop the technology.

Intermedia goes even further, proposing that "competing carriers must be given the opportunity to participate in the trial."¹¹ Like MCI's proposal, Intermedia's suggestion would force carriers that voluntarily invest in the research and development of new technologies to give competitors the benefits provided by the new technology.

The Commission should recognize that these recommendations are really bald attempts by a few carriers to take advantage of carriers willing to assume the risks associated with developing new technologies. In contrast to these positions, GTE's two-track approval process for technology tests will result in swift and certain approvals of experiments, while providing adequate protection for all parties. Thus, GTE's

⁹ Intermedia at 4, MCI at 8.

¹⁰ MCI at 8-9.

¹¹ Intermedia at 5.

proposal would provide telecommunications carriers the same incentives to develop new technologies existent in nonregulated markets.

IV. THE COMMISSION SHOULD IGNORE RECOMMENDATIONS TO MICROMANAGE EXPERIMENTS OR ALLOW THE PROCESS TO BECOME POLITICIZED.

Intermedia (at 4-5) proposes that technology tests meet "defined conditions."

These defined conditions are nothing more than detailed restrictions -- restrictions that are in fact "experiment killers." Intermedia's proposal would require any experiment to undergo countless contested filings, huge administrative expenses and enormous delays -- precisely the opposite of what the statute directs. As BellSouth (at 4) correctly notes, "the Commission should eliminate any regulatory process that presents itself as a tool for competitors to misuse in anticompetitive fashion as a means to delay the progression of the intended trial." Bell Atlantic (at 3) gives a concrete example of how an already approved enhanced service was held up for over a year by competitors' meritless filings. GTE shares these concerns. Not only must the Commission not micromanage this process, it must not allow the process to be subject to regulatory gamesmanship.

V. CONCLUSION.

The Commission should adopt GTE's two-track approach for granting technology test approvals. This approach best balances the concerns of all parties, gives certainty to the process, and provides carriers with greater incentives to develop advanced telecommunications services. The Commission must avoid micromanaging technology testing and must not allow competitors to use the regulatory process to deter others from bringing new services to the American public.

Dated: August 5, 1998

Respectfully submitted,

GTE Service Corporation and its affiliated
domestic telephone operating companies

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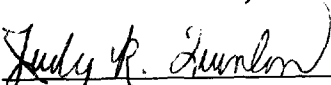
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Certificate of Service

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Reply Comments of GTE" have been mailed by first class United States mail, postage prepaid, on August 5, 1998 to all parties of record.


Judy R. Quinlan